

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:)	
)	BANKRUPTCY NO. 16-13900
GLORIA P. JOHNSON AND)	
AARON P. WARREN,)	CHAPTER 13
)	
Debtor,)	
U.S. BANK TRUST NATIONAL)	
ASSOCIATION AS TRUSTEE OF THE)	
CABANA SERIES III TRUST,)	
)	Docket No. _____
Movant,)	
v.)	
)	
GLORIA P. JOHNSON AND)	
AARON P. WARREN AND)	
WILLIAM C. MILLER, TRUSTEE,)	
)	
Respondents.)	

**MOTION OF U.S. BANK TRUST NATIONAL ASSOCIATION AS TRUSTEE FOR THE
CABANA SERIES III TRUST FOR RELIEF FROM THE AUTOMATIC STAY**

U.S. Bank Trust National Association as Trustee for the Cabana Series III Trust
("Movant") moves this Honorable Court for an Order granting relief from the Automatic Stay
pursuant to 11 U.S.C. § 362 and in support thereof avers the following:

1. Movant is a National Banking Institution with an address of 7114 E. Stetson Drive, Suite 250, Scottsdale, Arizona 85251.
2. The Debtors filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code at the within captioned case number on May 31, 2016 (the "Bankruptcy").
3. Debtor is the owner of real property located at 732 Marlyn Road, Philadelphia, Pennsylvania 19151 (the "Real Property").
4. Movant is a party-in-interest in the above-referenced Bankruptcy matter as it is a secured creditor of the Debtor holding a mortgage lien against the Real Property.

5. The Movant's interest in the Real Property is evidenced by the Secured Proof of Claim filed on November 7, 2016 at Claim No. 16-1 (the "Claim").

6. The Claim was assigned to Movant by virtue of a Transfer of Claim filed on December 19, 2019 at Docket No. 47.

7. The outstanding balance due under the Claim as of November 8, 2019 was \$55,246.97 outlined as follows:

Principal	\$45,957.12
Interest through 11/8/19	\$ 2,698.28
Escrow Deficiency	\$ 1,112.79
Fees and Costs	\$ 5,908.91
Less Unapplied Funds	\$ (430.13-)

with additional interest accruing at the rate of \$30.32 per diem.

8. The Real Property has a value of \$79,207.00 as evidenced by the Debtors' schedules.

9. Movant has not received any payments from the debtor since March 2019 and lacks adequate protection of its interest in the Real Property.

10. Debtors are currently in default with Movant for failing to make monthly payments when due pursuant to the terms of the note and mortgage that are the basis of the Claim. The following chart refers only to the number and amount of outstanding post-petition payments due pursuant to the terms of the Note and Mortgage. Any payments that have been or may be received post-petition are applied to the next contractual post-petition due date:

Number of Payments Missed	Monthly Payment Amount	Total
6 – 8/19 through 12/19	\$430.13	\$2,580.78

11. Pursuant to Section 362(d) of the Bankruptcy Code, the Court is authorized to grant relief from the Automatic Stay as follows:

- 1 For cause, including the law of adequate protection of an interest in property of the such party in interest; or
- 2 With respect to a stay of an act against property under subsection (a) of this section, if:
 - (i) the debtor does not have any equity in such property; and
 - (ii) such property is not necessary to an effective reorganization.

11 U.S.C. § 362(d).

12. Movant is entitled to relief from Automatic Stay because of the foregoing default and because (a) Movant lacks adequate protection of its security interest in the aforementioned real estate; and (b) Debtor does not have sufficient equity in the secured assets and it is not necessary for an effective reorganization.

13. Movant requests relief from the stay imposed by Bankruptcy Court Rule 4001 to allow Movant to immediately enforce and implement the Order granting relief from the Stay.

WHEREFORE, Movant prays for an Order modifying the Automatic Stay of Bankruptcy Code § 362(a) to permit Movant to foreclose on its Mortgage and to exercise any other rights it has under the Note and Mortgage or with respect to the mortgaged Real Property; granting Movant relief from the Automatic Stay pursuant to Bankruptcy Rule 4001, and such further and other relief as this Court deems just and proper.

Dated: January 30, 2020

Respectfully submitted,

The Lynch Law Group

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